



## INTRODUCTION AND RESOURCES CITED

The purpose of this publication is to provide Virginia prosecutors with a reference to Virginia statutory and case law authority on issues arising frequently in the prosecution of child abuse. This publication was initially designed as a supplement to THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE (hereinafter MANUAL) published by the American Prosecutors Research Institute (APRI). This MANUAL provides general strategy advice on the prosecution of child abuse cases and such a discussion here would be redundant. This publication references the third edition of the MANUAL for the reader's convenience, however it is not necessary to use this document. Virginia law and practice unique to child abuse prosecution is the main focus of this publication and by maintaining a narrow focus, the authors and editors intend to provide a practical resource for Virginia prosecutors. Virginia statutes, Rules and case law are current as of July 1, 2003.

VIRGINIA STATUTES should not be read as advocating a single "correct" approach to the investigation and prosecution of child abuse. The information provided in VIRGINIA STATUTES should be evaluated in the context of the reader's community, the facts of individual cases, evolving case law, departmental policy, and the interests of justice. The authors, editors and revisor recognize that because the circumstances of each case differ, a prosecutor's judgment in a given case may differ from recommendations provided by this document.

There are a number of additional resources that will be helpful to prosecutors handling these cases, and references will be made to a number of them in this publication. The APRI is a principal resource itself through its National Center for the Prosecution of Child Abuse located at 99 Canal Center Plaza, Suite 510, Alexandria, Virginia 22314, its training programs, its publications such as the MANUAL, which is revised periodically, and Update and Update Express, which may be subscribed to at no charge or accessed through the Internet on line at [www.ndaa-apri.org/publications/newsletters/update\\_index.html](http://www.ndaa-apri.org/publications/newsletters/update_index.html) or [www.ndaa-apri.org/apri/programs/ncpca/update\\_express\\_index.html](http://www.ndaa-apri.org/apri/programs/ncpca/update_express_index.html), and through technical assistance.

The Virginia CLE publication, JUVENILE LAW AND PRACTICE IN VIRGINIA (Second Edition 2002) (hereinafter JUVENILE LAW HANDBOOK), edited by Professor Shepherd, is an indispensable resource for handling these cases in the juvenile and domestic relations district court, and the chapters on "Child Psychology and Development" and "Physical and Medical Aspects of Child Abuse and Neglect" are especially useful for background information in this area. In addition, the chapters on "Abuse and Neglect Proceedings" and "Foster Care and Termination of Parental Rights" provide helpful material on the civil side of these cases.

Other valuable resources are Roger D. Groot, CRIMINAL OFFENSES AND DEFENSES IN VIRGINIA (Fourth Edition 1998 (Supplemented annually)) (hereinafter GROOT), the recognized authority on substantive criminal law in the state; Ronald J. Bacigal, VIRGINIA CRIMINAL PROCEDURE (Fourth Edition 1999 (Supplemented annually)) (hereinafter BACIGAL), likewise the acknowledged authority on Virginia criminal procedure; Ronald J. Bacigal, Joseph S. Tate and Thomas F. Guernsey, ADMISSIBILITY OF EVIDENCE IN VIRGINIA: A MANUAL FOR TRIAL LAWYERS (Second Edition 1998 (Supplemented in 2002)) (hereinafter BACIGAL, TATE & GUERNSEY), Charles E. Friend, THE LAW OF EVIDENCE IN VIRGINIA (Fifth Edition

1999 (Supplemented in 2002)) (hereinafter FRIEND), the longtime authority in Virginia courts; Kent Sinclair, Joseph C. Kearfott, Paul F. Sheridan and Edward J. Imwinkelried, VIRGINIA EVIDENTIARY FOUNDATIONS (1998 (Supplemented in 2002-2003)) (hereinafter SINCLAIR ET AL); and Boyd-Graves Conference of the Virginia Bar Association, A GUIDE TO EVIDENCE IN VIRGINIA (2003 Edition) (hereinafter GUIDE). These resources will be cited throughout this publication for a fuller exposition of the principle or rule stated in the text.

Two national publications by Professor John E. B. Myers are especially useful in handling these cases—John E. B. Myers, LEGAL ISSUES IN CHILD ABUSE AND NEGLECT PRACTICE (Second edition 1998), and John E. B. Myers, EVIDENCE IN CHILD ABUSE AND NEGLECT CASES (Third edition 1997) (hereinafter MYERS). The second publication, in two volumes, is an extremely helpful resource in trying these cases and it gives useful practice tips and excerpts from transcripts that are useful in trying cases with difficult and unusual evidentiary problems.